

REMARKS

Applicant gratefully acknowledges the courtesy of a personal interview on October 2, 2002, and a telephonic interview on April 22, 2003, in which Examiner Anish Gupta and Minh-Quan K. Pham discussed several issues in respect to the pending application. During the interview, the claims are discussed with respect to the rejection under 35 U.S.C. § 112, first paragraphs. The Examiner suggested several amendments to get the claims in condition for allowance.

Claims 8, 10-15, 17-21, 23-35, and 38-39 are pending. Claims 8 and 15 have been amended in accordance with the Examiner's suggestion. Support for the amendment to claim 15 can be found in second paragraph of the Abstract as originally filed.

Applicant has amended claim 8 to remove "for the at least partial production or reproduction of bone" in accordance with the Examiner's recommendation during the telephonic interview of April 22, 2003. The claim now does not recite the production or reproduction bone. Therefore, the §112, first paragraph, rejection is no longer appropriate and should be withdrawn.

Applicant has also amended claim 15 to delete references to "producing" or "reproducing" vertebral structures pursuant to the agreement reached with the Examiner during the personal interview of October 2, 2002, and telephonic interview of April 22, 2003, to overcome the rejection based on non-enablement. Further, the addition of "treating broken vertebral structures" does not read on spontaneous generation of bone as suggested by the Examiner during the telephonic interview of April 22, 2003. Therefore, the §112, first paragraph, rejection is no longer appropriate and should be withdrawn.

Because claim 21 does not recite “producing” or “reproducing” of bone, it cannot possibly read on spontaneous generation of bone. In the personal interview on October 2, 2002, the Examiner agreed that the claim should not have been rejected under 35 U.S.C. §112, first paragraph. Therefore, Applicant respectfully requests the withdrawal of the rejection.

Claims 8, 10-14, 31, 34, and 38 stand rejected under the judicially created doctrine of double patenting over claims 1-8 of U.S. Pat. No. 5,932,207. A terminal disclaimer has been filed on October 3, 2002, along with an After Final Amendment.

Based on the aforesaid interviews and this amendment, all of the claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the Examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (109572-00101). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, applicant hereby petitions under 37 C.F.R.. 1.136(a) for an extension of time for as many months as are required to render this submission timely.

Any fees due are authorized above.

Respectfully submitted,

Date: May 23, 2003

By: 

Brian C. Jones

Registration No. 37,857

BLANK ROME LLP
900 17th Street, N.W., Suite 1000
Washington, D.C. 20006
Tel.: (202) 530-7400
Fax: (202) 463-6915 (facsimile)

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